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2
3 UNITED STATES DISTRICT COURT
4 WESTERN DISTRICT OF WASHINGTON
5 AT TACOMA

6 MICHAEL HOLMBERG,

7 Plaintiff,

8 v.

9 RONALD VAN BOENING, DANIEL
10 FITZPATRICK, PAUL DRAGO, LT.
MARK KELLER, and DEBRA
LAVAGNINO,

11 Defendants.

No. C10-5367 BHS/KLS

ORDER DENYING MOTION TO
CONSOLIDATE

12 Before the Court is Plaintiff's motion to consolidate this matter with *Holmberg v. Vail, et*
13 *al.*, Case No. C11-5449 BHS/KLS. ECF No. 30. Having reviewed the motion, Defendants'
14 opposition (ECF No. 31), and balance of the record, the Court finds that the motion should be
15 denied.
16

17 **BACKGROUND**

18 Plaintiff Michael Holmberg is a Washington State inmate who has filed a 42 U.S.C. §
19 1983 civil rights action against various employees of the McNeil Island Corrections Center
20 (MICC), alleging deprivations of his constitutional rights. Plaintiff's primary claim in this case
21 is that the Defendants retaliated against him for filing grievances and/or lawsuits. In *Holmberg*
22 *v. Vail, et al.*, C11-5449 BHS-KLS, Plaintiff alleges constitutional violations stemming from
23 incidents occurring at the Stafford Creek Corrections Center (SCCC). That case primarily
24 concerns SCCC's handling of Plaintiff's mail.
25
26

1 Plaintiff moves to consolidate these cases based on his assertion that both cases involve
2 “arbitrary and illegal institutional policy and practice”, “arbitrary and illegal restriction of
3 outgoing mail”, “retaliation”, and similar requests for relief. ECF No. 30.

4 **DISCUSSION**

5 Trial courts may consolidate separate civil actions if the actions involve “a common
6 question of law or fact”. Civil Rule 42(a). The trial court’s decision on a motion to consolidate
7 lies within the broad discretion of the court. *In re Adams Apple, Inc.*, 829 F.2d 1484, 1487 (9th
8 Cir. 1987).

10 The two cases Plaintiff seeks to consolidate have few, if any, common questions of law
11 or fact. In this case, Plaintiff claims that several MICC employees retaliated against him for
12 exercising his constitutional rights. He does not challenge any DOC policy or practice. None of
13 the Defendants in this case are defendants in Case No. C11-5449. Plaintiff’s claims in Case No.
14 C11-5449 are against employees of the SCCC, an entirely different DOC facility. This case was
15 filed over a year before Case No. C11-5449 and Defendants have filed a motion for summary
16 judgment, which is pending. No. 32. There are also few or no common issues of law.
17 Although both cases involve claims of retaliation and mishandling of mail, the law underlying
18 these claims is well established and not at issue.

20 Accordingly, it is **ORDERED**:

- 21 (1) Plaintiff’s motion to consolidate (ECF No. 30) is **DENIED**.
22
23 (2) The Clerk shall send copies of this Order to Plaintiff and counsel for Defendants.

24 DATED this 2nd day of September, 2011.

25 
26 Karen L. Strombom
United States Magistrate Judge